

LEGISLATIVE MINUTES

MARLBORO TOWNSHIP COUNCIL MEETING

APRIL 7, 2005

The Marlboro Township Council held a regularly scheduled Council meeting on April 7, 2005 at 8:00 P.M. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey.

Council President Pernice opened the meeting and announced that pursuant to the provisions of the Open Public Meetings Act, notice of this regular meeting of the Township Council of the Township of Marlboro was faxed to the Asbury Park Press, the Star Ledger and News Transcript on January 7, 2005; faxed to the Board of Education Office; posted on the Bulletin Board of the Municipal Building and filed in the office of the Municipal Clerk.

The Clerk called the Roll.

PRESENT: Councilman Cantor, Councilman Denkensohn, Councilman Mione, Council Vice President Morelli and Council President Pernice.

Also present were: Mayor Robert Kleinberg, Andy Bayer, Esq., Business Administrator Judith Tiernan, Municipal Clerk Alida DeGaeta and Deputy Clerk Deborah Usalowicz.

Boy Scott Troop 86 led the Salute to the Flag.

The following Res. # 2005-120/Ord. # 2005-5 (Amending Chapter 66 - Fire Prevention) was introduced by reference as amended, offered by Councilman Denkensohn, seconded by Council Vice President Morelli and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2005-120

BE IT RESOLVED by the Township Council of the Township of Marlboro that an Ordinance entitled:

ORDINANCE # 2005-5 (As Amended)

AN ORDINANCE AMENDING AND SUPPLEMENTING PART II, "GENERAL LEGISLATION," CHAPTER 66 "FIRE PREVENTION" OF THE CODE OF THE TOWNSHIP OF MARLBORO TO MEET THE LEGAL REQUIREMENTS OF THE STATE UNIFORM FIRE CODE

which was introduced on February 17, 2005, public hearing held March 15, 2005, be adopted on second and final reading this 7th day of April, 2005.

BE IT FURTHER RESOLVED that notice of the adoption of this ordinance shall be advertised according to law.

ORDINANCE # 2005-5 (As Amended)

AN ORDINANCE AMENDING AND SUPPLEMENTING PART II, "GENERAL LEGISLATION," CHAPTER 66 "FIRE PREVENTION" OF THE CODE OF THE TOWNSHIP OF MARLBORO TO MEET THE LEGAL REQUIREMENTS OF THE STATE UNIFORM FIRE CODE

WHEREAS, the Uniform Fire Safety Act, N.J.S.A. 52:27D-192, *et seq.*, was enacted for the purpose of establishing a system for the enforcement of uniform, minimum fire safety standards throughout the State of New Jersey; and

WHEREAS, the New Jersey Department of Community Affairs has promulgated uniform, minimum fire safety standards, which have been made a part of the New Jersey Uniform Fire Code, N.J.A.C. 5:70-1, *et seq.*; and

WHEREAS, the Uniform Fire Safety Act authorizes municipalities to provide for local enforcement of these standards and to establish local enforcement agencies for that purpose; and

WHEREAS, it is in the best interest of the Township of Marlboro to have the Uniform Fire Code enforced locally; and

WHEREAS, the local fire service has agreed to the plan, as set forth herein, for the administration and enforcement of the Uniform Fire Code; and

WHEREAS, the Board of Fire Commissioners, the Fire Prevention Bureau and the fire companies of the Township of Marlboro have requested that the Township Council of the Township of Marlboro compel the installation and utilization of the Rapid Entry Box System within the Township of Marlboro; and

WHEREAS, the purpose of the Rapid Entry Box System is to insure that fire fighters responding to an emergency call at a business or commercial structure within the Township of Marlboro will have instant access to the interior of the structure, thereby avoiding the need for forcible entry; and

WHEREAS, the Division of Fire Safety of the New Jersey Department of Community Affairs, pursuant to a routine monitoring inspection of the Township of Marlboro Fire Prevention Bureau, has recommended certain amendments to the Township of Marlboro Code; and

WHEREAS, the Mayor and the Township Council believe it is in the best interest of the residents of the Township of Marlboro to amend Chapter 66 of the Code of the Township of Marlboro to make certain amendments to the Township of Marlboro Code as recommended by the Division of Fire Safety of the New Jersey Department of Community Affairs, including amendments regarding the Rapid Entry Box System.

NOW THEREFORE, BE AND IT IS HEREBY ORDAINED, by the Township Council of the Township of Marlboro, County of Monmouth and State of New Jersey that Chapter 66 "Fire Prevention," Article I "Local Enforcement of State Standards" is amended and supplemented as follows:

The title of Article I shall be changed from "Local Enforcement of State Standards" to "Local Enforcement of the New Jersey Uniform Fire Code."

Section 66-1 is hereby amended and supplemented to read in its entirety as follows:

§ 66-1 Local Enforcement

Pursuant to the Uniform Fire Safety Act, N.J.S.A. 52:27D-192, *et seq.*, the New Jersey Uniform Fire Code, N.J.A.C. 5:70-1, *et seq.*, shall be locally enforced in the Township of Marlboro.

Section 66-2 is recodified in its entirety.

Section 66-3 is hereby amended and supplemented to read in its entirety as follows:

§ 66-3 Agency Designation

The local enforcing agency shall be the Township of Marlboro through its Bureau of Fire Prevention, which is hereby

created herein. The Bureau of Fire Prevention shall hereinafter be known as the local enforcement agency.

Section 66-4 is hereby amended and supplemented to read in its entirety as follows:

§ 66-4 Definitions

TOWNSHIP FIRE OFFICIAL - the Fire Official, as defined by the Uniform Fire Code.

TOWNSHIP FIRE INSPECTOR - a person working under the direction of the Township Fire Official who is certified by the Commissioner of the New Jersey Department of Community Affairs and appointed or designated to enforce the New Jersey Uniform Fire Code by the Township of Marlboro Bureau of Fire Prevention.

UNIFORM FIRE CODE - the New Jersey Uniform Fire Code, N.J.A.C. 5:70-1, *et seq.*

UNIFORM FIRE SAFETY ACT - the New Jersey Fire Safety Act, N.J.S.A. 52:27D-192, *et seq.*

Section 66-5 is hereby amended and supplemented to read in its entirety as follows:

§ 66-5 Duties

A. Within the established boundaries of the Township of Marlboro, the Bureau of Fire Prevention shall enforce the Uniform Fire Code in all buildings, structures and premises, other than owner-occupied buildings of less than three dwelling units used exclusively for dwelling purposes and buildings, structures and premises owned or operated by the Federal Government, Interstate agencies or the State of New Jersey.

B. The Bureau of Fire Prevention shall faithfully comply with all the pertinent requirements of the Uniform Fire Safety Act and the Uniform Fire Code.

C. The Township Attorney, as described in Section 4-67, shall assist the Bureau of Fire Prevention in the enforcement of the Uniform Fire Code.

D. The Fire Prevention Bureau shall also be charged with the duties of enforcement of any other ordinances of the Code of the Township of Marlboro which pertain to fire prevention.

Section 66-6 is hereby amended and supplemented to read in its entirety as follows:

§ 66-6 Organization

A. The Bureau of Fire Prevention shall be under the direct supervision and control of the Township Fire Official.

B. The Bureau of Fire Prevention shall have at least one paid Fire Official, one paid secretary, and such paid Fire Inspectors as may be necessary for the proper enforcement of the Uniform Fire Code.

Section 66-7 is hereby amended and supplemented to read in its entirety as follows:

§ 66-7 Appointments, Qualifications, Term of Office, Removal

A. Appointment and Qualification of the Township Fire Official

The Township Fire Official shall be certified by the State of New Jersey and appointed through the applicable laws of State of the New Jersey pursuant to Title 11, Civil Service of the Revised Statutes.

B. Appointment and Qualifications of the Township Fire Inspectors and Other Employees

Fire Inspectors and other employees of the Bureau of Fire Prevention shall be appointed upon the recommendation of the Township Fire Official and through the applicable laws of the New Jersey Department of Personnel pursuant to Title 11, Civil Service of Revised Statutes. All life hazard use inspectors shall be certified by the State of New Jersey.

C. Removal from Office

The Township Fire Official, Township Fire Inspectors and other employees of the Bureau of Fire Prevention shall hold their positions pursuant to Civil Service laws. They shall be removed from their office or position through the applicable laws of the New Jersey Department of Personnel pursuant to the requirements of Title 11, Civil Service of the Revised Statutes. Before removal from their positions or offices, all persons shall be afforded an opportunity to be heard.

Section 66-8 is hereby amended and supplemented to read in its entirety as follows:

§ 66-8 Life Hazard Uses

The Bureau of Fire Prevention shall carry out the periodic inspections of life hazard uses required by the Uniform Fire Code on behalf of the Commissioner of the New Jersey Department of Community Affairs.

Section 66-9 is hereby amended and supplemented to read in its entirety as follows:

§ 66-9 New Jersey Uniform Fire Code Permits

Permits shall be required and obtained from the Bureau of Fire Prevention for the activities specified in N.J.A.C. 5:70-2.7 of the Uniform Fire Code, except where the activities are an integral part in the process or activity of a State registered life hazard use. The permit fees shall be regulated by N.J.A.C. 5:70-2.9(c) of the Uniform Fire Code.

Section 66-10 is hereby amended and supplemented to read in its entirety as follows:

§ 66-10 Board of Appeals

Pursuant to N.J.A.C. 5:70-2.19 of the Uniform Fire Code, any person aggrieved by any action of the Fire Prevention Bureau shall have the right to appeal to the Construction Board of Appeals of Monmouth County.

Section 66-11 is hereby amended and supplemented to read in its entirety as follows:

§ 66-11 Enforcement, Violations and Penalties

Enforcement, violations and penalties shall be managed in conformity with the Uniform Fire Safety Act, the Uniform Fire Code and all other applicable laws of the State of New Jersey.

Section 66-12 is hereby amended and supplemented to read in its entirety as follows:

§ 66-12 Funding for the Bureau of Fire Prevention

The annual budget for the operations of the Bureau of Fire Prevention shall be established by the Township Fire Official and subject to the approval of the Township Council of the Township of Marlboro. Said salaries and expenses shall be paid from the budget of the Township of Marlboro. The Township Fire Official, subject to the limitations of the state statute, shall make the determination of the annual budget and maintenance revision of personnel policies and procedures. In accordance with N.J.A.C. 5:71-2.6(d), all revenues generated pursuant to the Uniform Fire Safety Act or local implementing ordinance which are collected by or provided to the Township of Marlboro shall be part of the appropriation to the Fire Prevention Bureau for the purpose of enforcing this section of the Code of the Township of Marlboro, operations and advancement of local fire prevention interests.

§ 66-13 Severability and Repealer

In the event that any section of this Article of the Code of the Township of Marlboro is declared to be illegal, unconstitutional or otherwise unenforceable, then the balance of this Article shall not be deemed void but shall remain in full force and effect. Provisions of the Code of the Township of Marlboro that are inconsistent with any section of this Article as herein amended and supplemented are hereby repealed.

Sections 66-14 through 6-16 of Part II, "General Legislation," Chapter 66, "Fire Prevention," Article I, "Local Enforcement of State Standards" are hereby repealed.

Sections 66-17 and 66-18 of Part II, "General Legislation," Chapter 66, "Fire Prevention," Article I, "Local Enforcement of State Standards" are hereby recodified in their entirety under a new Article as Part II, "General Legislation," Chapter 66, "Fire Prevention," Article II, "Township Fire Insurance Claim Requirements," Sections 66-14 and 66-15, respectively.

Section 66-19 of Part II, "General Legislation," Chapter 66, "Fire Prevention," Article I, "Local Enforcement of State Standards" is hereby repealed.

BE IT FURTHER ORDAINED that a new Article III is adopted entitled Part II, "General Legislation," Chapter 66, "Fire Prevention," Article III, "Fire Lane Designations, Maintenance and Enforcement" and shall read as follows:

§ 66-16 Designations

A. The Fire Official may require and designate public and private fire lanes as deemed necessary for the efficient and effective operation of fire apparatus and other emergency equipment.

B. Fire lanes required by the Fire Official shall not conflict with prior approvals issued by the Planning and/or Zoning Boards.

§ 66-17 Identification

Designated fire lanes shall be clearly identified through the use of fire lane signs "No Parking - Fire Lane" and/or reflective yellow painted six inch wide stripping and lettering on a paved surface at ground level as approved by the Fire Official.

§ 66-18 Maintenance

A. Designated fire lanes shall be maintained free of all obstructions and no person shall at any time park a motor vehicle in, or otherwise obstruct, the fire lane in anyway.

B. Fire lane markings shall be maintained clean and legible at all times and replaced when necessary to ensure adequate visibility.

§ 66-19 Enforcement and Penalties

Vehicles parked in clearly identified fire lanes shall be subject to a penalty in the amount of not less than \$50.00 or greater than \$100.00 for each separate offense. The Fire Official will issue a Notice of Violation and Penalty Assessment to the vehicle owner/driver, or place the notice on the windshield of the vehicle if the owner/driver is not available. This penalty must be paid within 30 days after issuance. If the penalty is not paid within 30 days, this matter will be referred to the Township Attorney for municipal court enforcement and summary collection under the New Jersey Penalty Enforcement Law, N.J.S.A. 2A:58-1, *et seq.*

BE IT FURTHER ORDAINED that Part II, "General Legislation," Chapter 66 "Fire Government", Article II "Fire Control Measures and Regulations" is hereby recodified as Part II, "General Legislation," Chapter 66 "Fire Government", Article IV "Fire Control Measures and Regulations" and is amended and supplemented as follows:

Section 66-20 shall remain unchanged.

Section 66-21 shall be amended and supplemented to replace throughout the term "fire subcode official" with "Fire Chief."

Section 66-22 shall remain unchanged.

Section 66-23 shall be repealed in its entirety.

Section 66-24 shall be recodified as Section 66-23 and shall be amended and supplemented to replace throughout the term "fire subcode official" with "Fire Chief."

Section 66-25 shall be recodified in its entirety as Section 66-24.

Section 66-26 shall be recodified as Section 66-25 and shall be amended and supplemented to replace throughout the term "fire subcode official" with "Fire Chief."

Section 66-27 shall be recodified in its entirety as Section 66-26.

Section 66-28 shall be repealed in its entirety.

Section 66-29 shall be recodified as Section 66-27 and amended and supplemented to read as follows:

§ 66-27 Permit required for use of fire hydrants

A person shall not use or operate any fire hydrant intended for use of the Fire Department for fire suppression purposes unless such person first secures a permit for such use from the water company having jurisdiction. This section shall not apply to the use of such hydrants by a person employed by, and authorized to make such use by, the water company having jurisdiction.

Section 66-30 shall be recodified in its entirety as Section 66-28.

Sections 66-31 through 66-33 shall be repealed in their entirety.

Section 66-34 shall be recodified as Section 66-29 and amended and supplemented to read as follows:

§ 66-29 Obstruction of streets

A. A person or persons shall not erect, construct, place or maintain any speed bumps, fences, gates, chains, bars, pipes, wood or metal horses or any other type of obstruction in or on any street within the boundaries of the municipality that would in anyway impede the use of emergency equipment. The word "street" as

used in this article shall mean any roadway accessible to the public for vehicular traffic, including but not limited to, private streets or access lanes, as well as all public streets and highways within the boundaries of the municipality.

B. Subsection A does not affect the existing right of a board of directors of any corporation, or the board of trustees of any corporation, or other institution of a public or semipublic nature not for pecuniary profit, having control over private roads, to construct or provide for the construction of a speed hump on any private road, including parking areas, conforming in design and construction to the technical standards established by the New Jersey Department of Transportation as provided for by N.J.S.A. 39:4-8.9 through N.J.S.A. 39:4-8.11.

Section 66-35 shall be recodified in its entirety as Section 66-30.

Section 66-36 shall be repealed in its entirety.

BE IT FURTHER ORDAINED that an Article entitled Part II, "General Legislation," Chapter 66, "Fire Prevention," Article V, "Registration and Local Enforcement of the Uniform Fire Code on Non-Life Hazard Use Occupancies" is hereby added as follows:

§ 66-31 Non-Life Hazard Uses

A. In addition to the registrations required by the Uniform Fire Code, the following non-life hazard uses shall be registered by the Fire Prevention Bureau, inspected once per year under the standards established by the Uniform Fire Code and shall pay an annual fee as set forth below:

1. Assembly uses.

- a. Eating establishment under 50 occupancy - \$75.00.
- b. Take-out food service (no seating) - \$50.00.
- c. Recreation center, multi-purpose rooms, etc. with less than occupancy - \$75.00.
- d. Church or synagogue used for worship services - no charge.
- e. Volunteer Fire Department and emergency medical services facilities - no charge.
- f. Municipal activity centers - no charge.

2. Business/Professional Uses

- a. Business/professional use less than 1,000 square feet - \$35.00.
- b. Business/professional use more than 1,000 square feet but less than 3,000 - \$75.00.
- c. Business/professional use more than 3,000 square feet but less than 5,000 square feet - \$100.00.
- d. Business/professional use more than 5,000 square feet - \$150.00.

3. Retail Uses (Merchantile)

- a. Retail use less than 1,000 square feet - \$50.00.
- b. Retail use more than 1,000 square feet but less than 3,000 square feet - \$75.00.
- c. Retail use more than 3,000 square feet but less than 5,000 square feet - \$100.00.
- d. Retail use more than 5,000 square feet - \$150.00.

4. Manufacturing Uses (Non-Life Hazard Use)

- a. Manufacturing use less than 3,000 square feet - \$100.00.
- b. Manufacturing use more than 3,000 square feet but less than 6,000 square feet - \$150.00.
- c. Manufacturing use more than 6,000 square feet but less than 12,000 square feet - \$200.00.

5. Storage Uses

- a. Storage use less than 1,000 square feet - \$50.00.
- b. Storage use more than 1,000 square feet but less than 3,000 square feet - \$100.00.
- c. Storage use more than 3,000 square feet but less than 6,000 square feet - \$150.00.
- d. Storage use more than 6,000 square feet but less than 12,000 square feet - \$200.00.

B. Uses that are not classified in Section A, above that are subject to the Uniform Fire Code shall be classified as a business use.

C. Uses required to be registered with the State of New Jersey as a Life Hazard Use shall not be required to register under this Section.

- D. Vacant buildings that require an annual inspection due to fire protection systems or require inspections due to reported fire hazards shall be registered as a landlord use and shall be charged a fee of \$50.00 per inspection.
- E. An owner of commercial multiple occupancy building or complex, which requires a common area inspection, shall be registered as a landlord and shall pay an annual fee of \$50.00 per building.

§ 66-32 Penalties

Failure to pay the required annual non-life hazard use registration fee(s) within the time frame indicated on an order to do so will cause a penalty to be imposed in an amount equal to double the fee(s), but not less than \$100.00 or more than \$500.00. These penalties will be in addition to non-life hazard use fee(s) due and must be paid within 30 days after issuance of an Order to Abate Violation and Pay Penalty. If the total fee(s) and penalties are not paid within the 30 days in the Order, the matter will be referred to the Township Attorney for summary collection under the New Jersey Penalty Enforcement Law, N.J.S.A. 2A:58-1, *et seq.* and enforcement of this Section.

§ 66-33 Severability and Repealer

In the event that any section of this Article II, Registration and Local Enforcement of the Uniform Fire Code on Non-Life Hazard Use Occupancies, is declared to be illegal, unconstitutional or otherwise unenforceable, then the remainder of Article II shall not be deemed void but shall remain in full force and effect. Any section of the Code of the Township of Marlboro that is inconsistent with any section of Article II is hereby repealed.

BE IT FURTHER ORDAINED, that an Article entitled Part II, "General Legislation," Chapter 66 "Fire Government", Article VI "Required Installation of a Rapid Entry Box System" is hereby added as follows:

§ 66-34 Purpose

The Mayor and Township Council of the Township of Marlboro find that in order to protect the property and welfare of businesses, business patrons and fire company members within the

Township of Marlboro, a uniform system for rapid entry into certain buildings in the event of a report of a fire emergency is required.

§ 66-35 Definitions and Applicability

- A. Definitions. A Rapid Entry Box System shall mean a locking, vault-like container permanently mounted into the affected structure or building and accessible from outside of such structure or building, which, unless otherwise approved by the Fire Official, must be supplied by the Knox Company. The Rapid Entry Box will contain a key(s) that will allow for full entrance into all parts of the structure or building.
- B. Applicability. The following structures or buildings in the Township of Marlboro shall be required to have installed a Rapid Entry Box System:
 - 1. All commercial buildings or structures which utilize a fire alarm system or fire alarm devices that sends a fire alarm signal either to a local alarm or a monitoring service.
 - 2. All commercial buildings or structures that are protected by a sprinkler system.
 - 3. Exemption: Any buildings or structure staffed 24 hours a day, seven days a week.

§ 66-36 Type of Rapid Entry Box Required

Each affected building or structure shall cause an appropriate Rapid Entry Box to be mounted permanently into the structure or building and accessible from outside the structure or building. Each Rapid Entry Box shall be of sufficient size and configuration to allow the required contents as set forth in this Article to be stored therein conveniently. In order to assure acceptability of the Rapid Entry Box chosen, each owner, tenant or other responsible party of each affected structure or building shall receive approval from the Fire Official as to the size and configuration of the proposed Rapid Entry Box.

§ 66-37 Location of Rapid Entry Box

The Rapid Entry Box must be located on the outside of the building or structure and must be, to the extent possible, uniform among similar type structures in order to promote quick accessibility upon the arrival of fire personnel at the scene of an

emergency. Given differing structural characteristics of different types of structures and buildings, the location of the Rapid Entry Box on the exterior of each building or structure shall be submitted to and approved by the Fire Official.

§ 66-38 Required Contents of the Rapid Entry Box

The Rapid Entry Box for each building or structure shall contain a separately and clearly labeled key for each locked area within the building or structure (for example, and not by way of limitation, boiler rooms, electrical rooms, sprinkler control rooms, elevator control rooms, etc.), the building plan of any structure of building in excess of 30,000 square feet, sprinkler keys, and information concerning any hazardous materials contained within the building or structure, and a clear indication as to the part of the building or structure within which such hazardous materials are contained.

§ 66-39 Master Key Security

As used herein, "master key" shall mean the instrument to gain access to the various Rapid Entry System boxes to be used as a result of the provisions of this Article. The fire department shall establish a system of security and procedure to limit access to any master key(s) to authorized personnel in times of emergency. The fire department shall, to the extent feasible and practical, use the latest technological advances to preserve and enhance the security of the master key(s).

§ 66-40 Penalties for Noncompliance

Failure to install the required Rapid Entry Box system within the time frame indicated on a Notice of Violation and Order to Correct issued by the Fire Official shall cause a penalty to be imposed in the amount of \$500.00. This penalty must be paid within 30 days after issuance of an Order to Abate Violation and Pay Penalty. If the Rapid Entry Box system is not installed and the penalty is not paid within the 30 days, this matter will be referred to the Township Attorney for municipal court enforcement of the municipal ordinance and summary collection under the New Jersey Penalty Enforcement Law, N.J.S.A. 2A:58-1, *et seq.*

§ 66-41 Severability and Repealer

In the event that any section of this Article is declared illegal, unconstitutional or otherwise unenforceable, then the balance of the Article shall not be deemed void but shall remain in full force and effect. Provisions of the Code of the Township of

Marlboro that are inconsistent with any section of this Article as herein amended and supplemented are hereby repealed.

BE IT FURTHER ORDAINED, that Part II, "General Legislation," Chapter 66 "Fire Government", Article III, "Fire Department," Section 66-40 through 66-47 are hereby recodified as Part II, "General Legislation," Chapter 66, "Fire Prevention," Article VII, "Fire Department," Sections 66-42 through 66-49 and all Sections shall remain unchanged except as follows:

The newly codified Section 66-49 shall remain unchanged except subsection B(3) shall be deleted in its entirety and subsection B(4) shall be recodified as B(3).

BE IT FURTHER ORDAINED, that if any section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged by the courts to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause or provisions so adjudicated, and the remainder of the Ordinance shall be deemed valid and effective.

BE IT FURTHER ORDAINED, that any ordinances or parts thereof in conflict with the provisions of this Ordinance are repealed to the extent of such conflict.

BE IT FURTHER ORDAINED, that this Ordinance shall take effect upon passage and publication in accordance with applicable law.

The following Res. # 2005-124/Ord. # 2005-9 (Traffic Regulations - Kensington Gate) was introduced by reference, offered by Council Vice President Morelli, seconded by Councilman Mione and defeated a roll call vote of 0 - 5. Council President Pernice explained that the residents of that community have asked for changes in the ordinance, and this will be addressed at a future meeting.

Council President Pernice opened the Public Hearing on Res. # 2005-144/Ord. # 2005-12 (Amending Section 84-66 - Churches & Places of Worship). The public hearing was closed after all persons wishing to speak were heard.

At 9:15PM, Council Vice President Morelli moved that the meeting go into executive session for reason of anticipated litigation. This was seconded by Councilman Cantor and passed on a roll call vote of 4 - 1 in favor with Mione voting no.

Recess was called and the executive session commenced at 9:20PM.

RESOLUTION # 2005-165

WHEREAS, it is determined by the governing body of the Township of Marlboro that it is necessary on the 7th day of April, 2005 to go into executive session for the purpose of discussing those items that are particularly exempted from the Open Public Meetings Act, namely, anticipated litigation.

BE IT FURTHER RESOLVED that the governing body shall adjourn to executive session for the purpose of discussing said aforementioned items and that such executive session should take approximately 30 minutes. Those items discussed in executive session shall remain confidential until such time as confidentiality is no longer required. Action will be taken following the executive session.

Consensus of Council was to table Res. # 2005-144/Ord. # 2005-12 (Amending Section 84-66 - Churches & Places of Worship) to the May 5th meeting. Council President Pernice announced that a meeting will be scheduled with Mayor Kleinberg, a Council representative, Township Attorney, Township Planner, a representative from each House of Worship and a Buttonwood Acres representative to discuss this issue and to address concerns.

Council President Pernice opened the Public Hearing on Ordinance # 2005-13 (Amend Chapter 4 - Youth Exchange Advisory Committee). As there was no one who wished to speak, the Public Hearing was closed. The following Resolution # 2005-145/Ord. # 2005-13 (Amend Chapter 4 - Youth Exchange Advisory Committee) was introduced by reference, offered by Council Vice President Morelli, seconded by Councilman Cantor and passed on a roll call vote of 5 - 0.

RESOLUTION # 2005-145

BE IT RESOLVED by the Township Council of the Township of Marlboro that an Ordinance entitled:

ORDINANCE # 2005-13

AN ORDINANCE AMENDING AND SUPPLEMENTING SECTION 4-12 "STANDING COMMITTEES" OF CHAPTER 4 "ADMINISTRATION OF GOVERNMENT, ARTICLE II "COUNCIL" OF THE CODE OF THE TOWNSHIP OF MARLBORO

which was introduced on March 15, 2005, public hearing

"

held April 7, 2005, be adopted on second and final reading this 7th day of April, 2005.

BE IT FURTHER RESOLVED that notice of the adoption of this ordinance shall be advertised according to law.

The following Res. # 2005-146/Ord. # 2005-14 (Prohibiting Parking - Hobart Street) was introduced by reference, offered by Council President Pernice, seconded by Council Vice President Morelli and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2005-146

BE IT RESOLVED by the Township Council of the Township of Marlboro that an Ordinance entitled:

ORDINANCE # 2005-14

AN ORDINANCE AMENDING SECTION 138-38 "SCHEDULE I: NO PARKING" OF CHAPTER 138 "VEHICLES AND TRAFFIC", ARTICLE XIV "SCHEDULES" OF THE CODE OF THE TOWNSHIP OF MARLBORO TO PROHIBT PARKING ON CERTAIN PARTS OF HOBART STREET IN THE TOWNSHIP OF MARLBORO

be introduced and passed on first reading and that the same be advertised according to law; and

BE IT FURTHER RESOLVED that the same be considered for final passage on April 21, 2005 at 8:00 p.m. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey, at which time all persons interested will be given an opportunity to be heard concerning said ordinance.

ORDINANCE # 2005-14

AN ORDINANCE AMENDING SECTION 138-38 "SCHEDULE I: NO PARKING" OF CHAPTER 138 "VEHICLES AND TRAFFIC", ARTICLE XIV "SCHEDULES" OF THE CODE OF THE TOWNSHIP OF MARLBORO TO PROHIBT PARKING ON CERTAIN PARTS OF HOBART STREET IN THE TOWNSHIP OF MARLBORO

WHEREAS, Section 138-38 of the Code of the Township of Marlboro identifies those streets or parts of streets upon which parking is prohibited; and

WHEREAS, the Township of Marlboro Division of Police has recommended for public safety purposes that Section 138-38 be

amended to prohibit parking on both sides of Hobart Street from the intersection of Route 79 to a point 145 feet west of Route 79;

WHEREAS, in the interest of the health, safety and general welfare of the residents of the Township of Marlboro, the Township Council desires to amend Section 138-38 in accordance with the recommendations of the Division of Police.

NOW, THEREFORE, BE AND IT IS HEREBY ORDAINED, by the Township Council of the Township of Marlboro, County of Monmouth and State of New Jersey that Chapter 138 "Vehicles and Traffic", Article XIV "Schedules", Section 138-38 "Schedule I: No Parking" of the Code of the Township of Marlboro is hereby amended and supplemented to prohibit parking on the follow part of Hobart Street:

<u>Name of Street</u>	<u>Side</u>	<u>Location</u>
Hobart Street	Both	From the intersection of Route 79 to the western property line of the Property located at 4 Hobart Street, Block 225, Lot 240

BE IT FURTHER ORDAINED, that all signs, posts, or other necessary materials, shall be installed to effectuate the intent of this Ordinance; and

BE IT FURTHER ORDAINED, that if any part of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portion of the Ordinance.

The following Res. # 2005-147/Ord. # 2005-15 (Speed Limit Willow Lane) was introduced by reference as amended, offered by Councilman Cantor, seconded by Council President Pernice and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2005-147

BE IT RESOLVED by the Township Council of the Township of Marlboro that an Ordinance entitled:

ORDINANCE # 2005-15

AN ORDINANCE ESTABLISHING THE SPEED LIMIT FOR WILLOW LANE,
TOWNSHIP OF MARLBORO, NEW JERSEY IN ACCORDANCE WITH
N.J.S.A. 39:4-98

be introduced and passed on first reading and that the same be advertised according to law; and

BE IT FURTHER RESOLVED that the same be considered for final passage on April 21, 2005 at 8:00 p.m. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey, at which time all persons interested will be given an opportunity to be heard concerning said ordinance.

ORDINANCE # 2005-15

AN ORDINANCE AMENDING THE SPEED LIMIT FOR WILLOW LANE,
TOWNSHIP OF MARLBORO, NEW JERSEY IN ACCORDANCE
WITH N.J.S.A. 39:4-98

WHEREAS, by Ordinance #2005-6, the Township, pursuant to the recommendation of the New Jersey Department of Transportation, imposed a 35 M.P.H. speed limit upon Willow Lane in the Township of Marlboro from Union Hill Road to Route 9 North; and

WHEREAS, the New Jersey Department of Transportation has conducted a follow-up engineering and traffic investigation for Willow Lane and now recommends that the speed limit for Willow Lane be amended.

NOW, THEREFORE, BE AND IT IS HEREBY ORDAINED, by the Township Council of the Township of Marlboro, County of Monmouth and State of New Jersey that Chapter 138 "Vehicles and Traffic", Article XIV "Schedules", Section 138-55 "Schedule XVIII: Speed Limits" of the Code of the Township of Marlboro is hereby amended and supplemented to require the following speed limits for Willow Lane:

<u>Name of Street</u>	<u>Speed Limit (M.P.H.)</u>	<u>Location</u>
Willow Lane	35	Between Route US 9 and Rosen Drive
Willow Lane	30	Between Rosen Drive and Union Hill Road

BE IT FURTHER ORDAINED, that all signs, posts, or other necessary materials, including the appropriate curve symbol warning signs as outlined by the New Jersey Department of Transportation, shall be installed in conformance with the current Manual on Uniform Traffic Control Devices pursuant to N.J.S.A. 39:4-198.

BE IT FURTHER ORDAINED, that if any part of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portion of the Ordinance.

The following Res. # 2005-148/Ord. # 2005-16 (Increase CAP) was introduced by reference, offered by Council Vice President Morelli, and seconded by Councilman Mione. There was a brief question and answer session between Council and C.F.O. Ulrich Steinberg, after which the resolution/ordinance was passed on a roll call vote of 4 - 0 in favor (Absent: Pernice).

RESOLUTION # 2005-148

BE IT RESOLVED by the Township Council of the Township of Marlboro that an Ordinance entitled:

ORDINANCE # 2005-16

CALENDAR YEAR 2005

ORDINANCE TO EXCEED THE MUNICIPAL BUDGET APPROPRIATION LIMITS
AND TO ESTABLISH A CAP BANK
(N.J.S.A. 40A: 4-45.14)

be introduced and passed on first reading and that the same be advertised according to law; and

BE IT FURTHER RESOLVED that the same be considered for final passage on April 21, 2005 at 8:00 p.m. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey, at which time all persons interested will be given an opportunity to be heard concerning said ordinance.

ORDINANCE # 2005-16

CALENDAR YEAR 2005

ORDINANCE TO EXCEED THE MUNICIPAL BUDGET APPROPRIATION LIMITS
AND TO ESTABLISH A CAP BANK
(N.J.S.A. 40A: 4-45.14)

WHEREAS, the Local Government Cap Law, N.J.S. 40A: 4-45.1 et seq., provides that in the preparation of its annual budget, a municipality shall limit any increase in said budget to 2.5% unless authorized by ordinance to increase it to 3.5% over the previous year's final appropriations, subject to certain exceptions; and,

WHEREAS, N.J.S.A. 40A: 4-45.15a provides that a municipality may, when authorized by ordinance, appropriate the difference between the amount of its actual final appropriation and the 3.5% percentage rate as an exception to its final appropriations in either of the next two succeeding years; and,

WHEREAS, the Township Council of the Township of Marlboro in the County of Monmouth finds it advisable and necessary to increase its CY 2005 budget by up to 3.5% over the previous year's final appropriations, in the interest of promoting the health, safety and welfare of the citizens; and,

WHEREAS, the Township Council of the Township of Marlboro hereby determines that an increase of up to 3.5% in the budget for said year, in excess of the increase in final appropriations otherwise permitted by the Local Government Cap Law, is advisable and necessary; and,

WHEREAS, the Township Council hereby determines that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years.

NOW THEREFORE BE IT ORDAINED, by the Township Council of the Township of Marlboro, in the County of Monmouth, a majority of the full authorized membership of this governing body affirmatively concurring, that, in the CY 2005 budget year, the final appropriations of the Township of Marlboro shall, in accordance with this ordinance and N.J.S.A. 40A: 4-45.14, be increased by an amount not to exceed 3.5%, and that the CY 2005 municipal budget for the Township of Marlboro be approved and adopted in accordance with this ordinance; and,

BE IT FURTHER ORDAINED, that any that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years; and,

BE IT FURTHER ORDAINED, that a certified copy of this ordinance as introduced be filed with the Director of the Division of Local Government Services within 5 days of introduction; and,

BE IT FURTHER ORDAINED, that a certified copy of this ordinance upon adoption, with the recorded vote included thereon, be filed with said Director within 5 days after such adoption.

The following Resolution # 2005-98 (Tabled 2/17) Authorizing Contract - City Connections) was introduced by reference, offered by Councilman Cantor and seconded by Council Vice President Morelli. After discussion, the resolution was passed on a roll call vote of 3

- 2 in favor, with Councilman Denkensohn and Councilman Mione voting no.

RESOLUTION # 2005-98

A RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT
BETWEEN THE TOWNSHIP OF MARLBORO AND CITY CONNECTIONS FOR
WEBSITE AND E-MAIL HOSTING SERVICES AND OTHER RELATED
TECHNICAL SERVICES FOR THE TOWNSHIP OF MARLBORO WEBSITES

WHEREAS, the Township of Marlboro Office of Public Information has informed the Township Council that a need exists for the Township of Marlboro to enter into a contract for the provision website and e-mail hosting services and other related technical services, including development and maintenance, for the Township of Marlboro websites (collectively, the "Website Maintenance Services"); and

WHEREAS, the Office of Public Information sought proposals to provide the Website Maintenance Services from three qualified companies; and

WHEREAS, City Connections submitted a proposal dated November 23, 2004 to provide the Website Maintenance Services for an amount not to exceed \$5,450.00; and

WHEREAS, said proposal included a detailed listing of the services that would be provided and included an extensive list of municipal references, including the New Jersey State League of Municipalities; and

WHEREAS, the Office of Public Information has recommended that the Township Council authorize the execution of a contract between the Township of Marlboro and City Connections for the provision of the Website Maintenance Services; and

WHEREAS, the Township Council finds that it would be in the best interest of the Township of Marlboro to enter into a contract with City Connections; and

WHEREAS, the Local Public Contracts Law, N.J.S.A. 40A:11-1, *et seq.*, authorizes the awarding of a contract for the provision of extraordinary and unspecified services without public advertising for bids and bidding therefore.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that the Mayor is authorized to execute a contract, in a form legally acceptable to the Township Attorney, between the Township of Marlboro and City Connections for the provision of the Website Maintenance Services for an amount not to exceed \$5,450.00.

BE IT FURTHER RESOLVED that the Chief Financial Officer is directed to file a Certificate of Availability of sufficient funds for this contract and to attach same to this Resolution.

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

- a. City Connections
- b. Township office of Publication
- c. Township Administrator
- d. Township Chief Financial Officer
- e. Gluck Walrath, LLP

The following Resolution # 2005-149 (Amending WQM Plan - WMUA - Block 147, Lots 5 & 6) was introduced by reference, offered by Council Vice President Morelli, seconded by Councilman Cantor and passed on a roll call vote of 4 - 0 in favor (Absent: Denkensohn).

RESOLUTION # 2005-149

A RESOLUTION AUTHORIZING THE SUBMISSION OF A WATER QUALITY MANAGEMENT (WQM) PLAN AMENDMENT TO THE BUREAU OF WATERSHED MANAGEMENT AND THE MONMOUTH COUNTY PLANNING BOARD FOR PURPOSES OF INCLUDING BLOCK 147, LOTS 5 & 6, TOWNSHIP OF MARLBORO, MONMOUTH COUNTY, NEW JERSEY WITHIN THE WESTERN MONMOUTH UTILITIES AUTHORITY'S WASTEWATER TREATMENT SERVICE AREA

WHEREAS, the New Jersey Department of Environmental Protection (NJDEP) requires that proposed wastewater treatment and conveyance facilities and wastewater treatment service areas, as well as related subjects, be in conformance with an approved Water Quality Management ("WQM) plan; and

WHEREAS, as set forth in N.J.A.C. 7:15-3.4, the NJDEP has established the WQM plan amendment process for purposes of, among other things, incorporating additional sites into the wastewater treatment service areas included within the applicable WQM plan(s); and

WHEREAS, the Township Council desires to amend the applicable WQM plan(s) to include Block 147, Lots 5 & 6, Township of Marlboro,

Monmouth County, New Jersey within the water treatment service area of the Western Monmouth Utilities Authority.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that T & M Associates be and hereby is authorized to prepare and submit a WQM plan amendment to the Bureau of Watershed Management and the Monmouth County Planning Board that would include Block 147, Lots 5 & 6, Township of Marlboro, Monmouth County, New Jersey within the water treatment service area of the Western Monmouth Utilities Authority.

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

- a. Western Monmouth Utilities Authority
- b. Township Administrator
- c. Gluck Walrath, LLP.

The following Resolution # 2005-151 (Authorizing NJDOT Grant Applications) was introduced by reference, offered by Council Vice President Morelli, seconded by Council President Pernice and passed on a roll call vote of 4 - 0 in favor (Absent: Denkensohn).

RESOLUTION # 2005-151

RESOLUTION AUTHORIZING A GRANT APPLICATION FOR THE NEW
JERSEY DEPARTMENT OF TRANSPORTATION TO DEFRAY THE COST OF
ROADWAY/SAFE STREETS IMPROVEMENTS

WHEREAS, the New Jersey Department of Transportation (the "State") provides loans and/or grants to local government entities and/or organizations to defray the cost of roadway/safe streets improvements; and

WHEREAS, the Township of Marlboro wishes to further the public interest by obtaining the following grants from the State through the Department of Transportation for such purposes; and

Station Road Improvements	\$962,500.00
Brown Road Improvements	\$594,000.00
Marlboro High School Pedestrian Safety	\$315,000.00

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED by the Township Council of the Township of Marlboro as follows:

1. That the Mayor is hereby authorized to execute and the Municipal Clerk to attest to any necessary documents, which shall be

in a form acceptable to the Township Attorney, which may be required in connection with the aforesaid grant application processes.

2. That the Township agrees to comply with all applicable federal, state and local laws, rules and regulations in its performance of the project.

3. That a certified copy of this Resolution shall be provided to each of the following:

- a. Township Business Administrator
- b. Chief Financial Officer
- c. Township Engineer
- d. Township Attorney

The following Resolution # 2005-152 (Authorizing Contract Birdsall Engineering - Di Meo Subdivision and Greenbriar Pond Analysis) was introduced by reference, offered by Council Vice President Morelli, seconded by Council President Pernice and passed on a roll call vote of 4 - 0 in favor (Absent: Denkensohn).

RESOLUTION # 2005-152

A RESOLUTION AUTHORIZING THE EXECUTION OF PROFESSIONAL SERVICE
CONTRACTS BETWEEN BIRDSALL ENGINEERING, INC. AND THE TOWNSHIP OF
MARLBORO FOR THE PROVISION OF ENGINEERING SERVICES

WHEREAS, the Township of Marlboro is in need of the following professional engineering services: (1) the preparation of a minor subdivision plat for the Township-owned DiMeo Property (the "DiMeo Project") and (2) the performance of an engineering analysis of the existing detention basin located within the Greenbriar Marlboro Adult Community (the "Greenbriar Project"); and

WHEREAS, Birdsall Engineering, Inc. has submitted the following proposals (collectively, the "Proposals") to the Township of Marlboro to provide the aforementioned professional engineering services:

1. Proposal dated March 14, 2005 to provide the required professional engineering services for the DiMeo Project for an amount not to exceed \$9,500.00; and

2. Proposal dated March 10, 2005 to provide the required professional engineering services for the Greenbriar Project for an amount not to exceed \$10,000.00; and

WHEREAS, the Township Council has deemed it necessary and in the best interest of the municipality to hire Birdsall Engineering, Inc. to provide the required professional engineering services for the DiMeo Project and the Greenbriar Project in accordance with the Proposals; and

WHEREAS, the services to be provided are considered to be "Professional Services" pursuant to the Local Public Contracts Law, N.J.S.A. 40A:11-1, *et seq.*; and

WHEREAS, the Local Public Contracts Law authorizes the awarding of a contract for "Professional Services" without public advertising for bids and bidding therefore, provided that the Resolution authorizing the contract and the contract itself be available for public inspection in the office of the Municipal Clerk and that notice of the awarding of the contract be published in a newspaper of general circulation in the municipality.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that the Mayor is hereby authorized to execute contracts, in forms legally acceptable to the Township Attorney, between Birdsall Engineering, Inc. and the Township of Marlboro to provide the required professional engineering services for the DiMeo Project, in an amount not to exceed \$9,500.00, and for the Greenbriar Project, in an amount not to exceed \$10,000.00, in accordance with the Proposals; and

BE IT FURTHER RESOLVED that the Chief Financial Officer is directed to file a Certificate of Availability of sufficient funds for this contract and to attach same to this Resolution; and

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

- a. Birdsall Engineering, Inc.
- b. Township Engineering
- c. Business Administrator
- d. Township Chief Financial Officer
- e. Gluck Walrath, LLP

The following Resolution # 2005-153 (Requesting Noise Assessment - Route 18) was introduced by reference, offered by Councilman Cantor seconded by Councilman Mione and passed on a roll call vote of 4 - 0 in favor (Absent: Denkensohn).

RESOLUTION # 2005-153

A RESOLUTION AUTHORIZING TOWNSHIP OFFICIALS
TO REQUEST A TYPE II NOISE IMPACT STUDY ALONG
ROUTE 18 WITHIN THE TOWNSHIP OF MARLBORO

WHEREAS, from time to time, the citizens of the Township of Marlboro who reside along Route 18 have complained to the governing body that their quality of life is impaired by the noise emanating from the traffic on Route 18; and

WHEREAS, said citizens have requested that the Township Council do everything in its power to reduce the discomfort associated with such noise; and

WHEREAS, the New Jersey Department of Transportation's Traffic Noise Management Policy acknowledges that traffic noise is the most pervasive and most acutely perceived negative impact of transportation on the quality of life for residents living next to highways; and

WHEREAS, the New Jersey Department of Transportation follows Federal Code 23 C.F.R. 772 which provides for Type II noise impact studies for existing roadways where no transportation improvement project is planned; and

WHEREAS, the Township Council desires that such a study be performed along Route 18 within the Township of Marlboro and that such a study should specifically include Spencer Circle.

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of Marlboro, County of Monmouth, State of New Jersey, that the appropriate Township officials be and hereby are authorized to request that the New Jersey Department of Transportation perform a Type II noise impact study along Route 18 within the Township of Marlboro, with a focus upon the Spencer Circle area; and

BE IT FURTHER RESOLVED that the Municipal Clerk be and is hereby directed to provide a certified copy of this resolution to the Legislators representing the Township of Marlboro, with a request that they assist in any way possible to insure the protection of the quality of life of all of the residents of the Township of Marlboro living along Route 18; and

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

- a. The New Jersey Department of Transportation

- b. The Monmouth County Board of Chosen Freeholders
- c. Township Engineer
- d. Chief of the Division of Police
- e. Gluck Walrath, LLP

The following Resolution # 2005-154 (Subordination of Mortgage - Block 267, Lot 25 - 27 Sudbury Road) was introduced by reference, offered by Council Vice President Morelli seconded by Council President Pernice and passed on a roll call vote of 4 - 0 in favor (Absent: Cantor).

RESOLUTION # 2005-154

A RESOLUTION AUTHORIZING THE SUBORDINATION OF A TOWNSHIP -HELD MORTGAGE RELATING TO THE PROPERTY LOCATED AT 27 SUDBURY ROAD, MORGANVILLE (BLOCK 267, LOT 25 ON THE MARLBORO TOWNSHIP TAX MAP)

WHEREAS, Marvin and Dalia Winick (the "Owners") are the record owners of certain real property located at 27 Sudbury Road, Morganville, more commonly known and designated as Block 267, Lot 25 (the "Property"), on the Marlboro Township Tax Map; and

WHEREAS, the Property is encumbered with a first mortgage (the "First Mortgage") granted to First Horizon Loan Corporation in the current amount of approximately \$245,000.00; and

WHEREAS, on or about December 14, 2001, the Owners granted to the Township a second mortgage (the "Township Mortgage") encumbering the Property to secure the payment of \$12,000.00, with interest, which was recorded on January 24, 2002 in Mortgage Book 8077 at Page 6915; and

WHEREAS, the intention of the Township Mortgage is to secure the payment of expenses related to certain rehabilitation work which was performed at the Property pursuant to and in accordance with the Township's Affordable Housing Program; and

WHEREAS, by Resolution #2003-66, the Township Council authorized the subordination of the Township Mortgage to a \$55,000.00 home equity loan (the "Home Equity Loan") paid to the Owners by First Union National Bank, now known as Wachovia Bank; and

WHEREAS, the Owners now seek to refinance both their existing First Mortgage and Home Equity Loan through a new first mortgage with H&R Block Mortgage Company in the amount of \$320,000.00 (the "New Mortgage"); and

WHEREAS, as a condition of approving said refinancing, H&R Block Mortgage Company is requiring the Township of Marlboro to execute a Subordination Agreement acknowledging that, following the refinancing of the loans secured by the New Mortgage, the Township Mortgage would be subordinate to the New Mortgage; and

WHEREAS, Administration and the Township of Marlboro Engineering Department have determined that there is sufficient equity in the refinancing to satisfy the Township Mortgage, if needed.

NOW, THEREFORE, BE AND IT HEREBY IS RESOLVED by the Township Council of the Township of Marlboro that the Mayor is authorized to execute the Subordination Agreement, attached hereto and made a part hereof, acknowledging that the Township Mortgage is subordinate only to the New Mortgage issued by H&R Block Mortgage Company; and

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

- a. Diversified Settlement, Inc.
- b. COAH Coordinator
- c. Housing Services, Inc.
- c. Marvin and Dalia Winick
- d. Gluck Walrath LLP.

The following Res. # 2005-156 (Authorizing Township to Purchase COAH unit) was introduced by reference, offered by Councilman Denkensohn, seconded by Councilman Mione and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2005-156

A RESOLUTION AUTHORIZING THE PURCHASE OF 603 WINDFLOWER
COURT, MORGANVILLE, NEW JERSEY, AN AFFORDABLE HOUSING
UNIT, FOR RESALE

WHEREAS, the Township has learned that the Superior Court of New Jersey has entered a Judgment of Foreclosure in favor of Bank of America, N.A., a first purchase money mortgagor, against the owners of an affordable housing unit known as Lot 7 (C0603), Block 176 on the Tax Map of the Township, also known as 603 Windflower Court, Morganville, Marlboro Township (the "Property"); and

WHEREAS, pursuant to the New Jersey Council on Affordable Housing's regulations, the transfer of title of an affordable housing unit at a sheriff's sale permanently releases the affordability controls on the affordable housing unit; and

WHEREAS, the Property is scheduled for a sheriff's sale on Monday, April 18, 2005; and

WHEREAS, pursuant to N.J.A.C. 5:93-9.13 and the Affordable Housing Agreement between the Property's owners and the Township, which was filed at the Monmouth County Clerk's Office on March 24, 1994 at Deed Book 5297, Page 737, the Township may purchase the Property prior to a foreclosure sale at the approved maximum resale price as determined by the New Jersey Department of Community Affairs ("DCA") and convey the Property to a household that, among other criteria, has received written certification that it is a low- or moderate-income eligible household from DCA, as long as such transfer takes place within 90 days and the outstanding obligations to the first purchase money mortgage holders are satisfied; and

WHEREAS, such purchase of an affordable housing unit by a municipality will maintain the affordable housing controls on that property; and

WHEREAS, the Administration recommends that the Township purchase the Property prior to the sheriff's sale and convey the Property to a household that has received written certification that it is a low- or moderate-income eligible household from DCA so that the affordability controls on the Property may be maintained; and

WHEREAS, the Township Council finds that it would be in the best interest of the Township of Marlboro to purchase the Property for these purposes.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that the Township is authorized to purchase the Property prior to the sheriff's sale at a price of no more than the maximum resale price of \$112,755.00 established by DCA and convey the Property to a household that has received written certification that it is a low- or moderate-income eligible household from DCA so that the affordability controls on the Property may be maintained; and

BE IT FURTHER RESOLVED that the Chief Financial Officer is directed to file a Certificate of Availability of sufficient funds for this contract and to attach same to this Resolution; and

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

- a. Fein, Such, Kahn & Shepard, P.C.
- b. New Jersey Department of Community Affairs,
Housing Affordability Service
- c. Township Administrator
- d. Township Chief Financial Officer
- e. Gluck Walrath, LLP
- f. Township Affordable Housing Agency

The following Res. # 2005-157 (Authorizing Contract Cable Station - Curt Ciumei) was introduced by reference, offered by Council Vice President Morelli and seconded by Councilman Mione. Discussion followed, during which Mayor Kleinberg and Business Administrator Judith Tiernan explained the contract. After discussion, the resolution was passed on a roll call vote of 4 - 0 in favor with Councilman Denkensohn abstaining.

RESOLUTION # 2005-157

A RESOLUTION AWARDING A CONTRACT TO CURT CIUMEI FOR THE PROVISION
OF EXECUTIVE PRODUCER AND DIRECTOR SERVICES FOR THE TOWNSHIP OF
MARLBORO CABLE STATION

WHEREAS, the Township of Marlboro is in need of an executive producer/director for the Township of Marlboro Cable Station, who will, among other things, oversee the operation of the station; create a variety of programming for the station and train the volunteers who will work on the various projects; and

WHEREAS, it is estimated that the executive producer/director will need to provide services to the Cable Station for approximately 10-12 hours per week; and

WHEREAS, a proposal was submitted by Curt Ciumei to provide the necessary executive producer and director services for the Cable Station for an annual rate of \$15,000.00 (the "Proposal"); and

WHEREAS, because of the highly specialized nature of the services, it was impractical to obtain competitive quotations; and

WHEREAS, the Township Council desires to award a one-year contract with the option to renew for an additional one year to Curt Ciumei for the provision of executive producer and director services for the Township of Marlboro Cable Station; and

WHEREAS, N.J.S.A. 40A:11-3 of the Local Public Contracts Law allows contracts that do not exceed in a contract year the total sum of \$17,500.00 to be awarded without public advertising for bids.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that the contract for the provision of executive producer and director services for the Township of Marlboro Cable Station be and hereby is awarded to Curt Ciumei for a period of one year with the option to renew for an additional one year and that the Mayor is authorized to execute a contract, in a form legally acceptable to the Township Attorney, between the Township of Marlboro and Curt Ciumei in accordance with the proposal submitted; and

BE IT FURTHER RESOLVED that a certified copy of this Resolution shall be provided to each of the following:

- a. Chris Ciumei
- b. Chief Financial Officer
- c. Township Administrator
- d. Gluck Walrath, LLP

The following Res. # 2005-158 (Recycling Tonnage Grant) was introduced by reference, offered by Councilman Cantor, seconded by Councilman Mione and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2005-158

WHEREAS, the Mandatory Source Separation and Recycling Act, P.L. 1987, c. 102, has established a recycling fund from which tonnage grants may be made to municipalities in order to encourage local source separation and recycling programs; and

WHEREAS, it is the intent and spirit of the Mandatory Source Separation and Recycling Act to use the tonnage grants to develop new municipal recycling programs and to continue and expand existing programs; and

WHEREAS, the New Jersey Department of Environmental Protection is promulgating recycling regulations to implement the Mandatory Source Separation and Recycling Act; and

WHEREAS, the recycling regulations impose on municipalities certain requirements as a condition for applying for tonnage grants, including, but not limited to, making and keeping accurate,

verifiable records of materials collected and claimed by the municipality; and

WHEREAS, a resolution authorizing this municipality to apply for such tonnage grants will memorialize the commitment of this municipality to recycling and indicate the assent of the Marlboro Township Council to the efforts undertaken by the municipality and the requirements contained in the Recycling Act and recycling regulations; and

WHEREAS, such a resolution should designate the individual authorized to ensure that the application is properly completed and timely filed.

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Marlboro that Marlboro Township hereby endorses the submission of a Municipal Recycling Tonnage Grant Application to the New Jersey Department of Environmental Protection and Energy and designates the Recycling Coordinator to ensure that the said Application is properly filed.

BE IT FURTHER RESOLVED that the monies received from the recycling tonnage grant be deposited in a dedicated recycling trust fund to be used solely for the purposes of recycling.

As the Consent Agenda, the following Resolutions were introduced by reference, offered by Councilman Cantor, seconded by Councilman Denkensohn and passed on a roll call vote of 5 - 0 in favor: Res. #2005-159 (Award of State Contract - Gasoline), Res. #2005-160 (Award of State Contract - Diesel), Res. #2005-161 (Award of Contract - PSB - Human Resources Software), Res. #2005-163 (Award of Bid - Bus Transportation Service), Res. #2005-164 (Award of Bid - T-Shirts).

RESOLUTION # 2005-159

RESOLUTION AUTHORIZING THE PURCHASE OF GASOLINE FOR THE
TOWNSHIP OF MARLBORO DEPARTMENT OF PUBLIC WORKS
STATE CONTRACT #A44183

WHEREAS, the Marlboro Township Public Works Department has recommended that the Township purchase gasoline for the Department of Public Works from Marco Oil, Inc T/A Allied Oil LLC, 25 Old Camplain Road, Hillsborough, NJ 08844 under State Contract #A44183 for the amount \$0.0425/gallon over the daily Newark posting not to exceed \$162,000; and

WHEREAS, pursuant to N.J.S.A. 40A:11-12, a municipality may, without advertising for bids, purchase goods under any contract for such goods entered into on behalf of the State by the Division of Purchase and Property in the Department of Treasury; and

WHEREAS, it is in the interest of the citizens of the Township of Marlboro, County of Monmouth and State of New Jersey to provide the said gasoline to the Township of Marlboro Department of Public Works; and

WHEREAS, funds are available in Current Account Number 5-01-165-235 and have been certified to by the Chief Financial Officer of the Township of Marlboro; and

WHEREAS, the Township Council desires to approve the purchase of said gasoline;

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that authorization is hereby granted to purchase gasoline for the Department of Public Works from Marco Oil, Inc T/A Allied Oil, 25 Old Camplain Road, Hillsborough, NJ 08844 under State Contract #A44183 for the amount \$0.0425/gallon over the daily Newark posting not to exceed \$162,000; and

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

- a. Marco Oil Inc. T/A Allied Oil LLC, Hillsborough, NJ
- b. Township Administrator
- c. Township Department of Public Works
- d. Township Chief Financial Officer
- e. Gluck Walrath, LLP

RESOLUTION # 2005-160

RESOLUTION AUTHORIZING THE PURCHASE OF DIESEL FUEL FOR THE
TOWNSHIP OF MARLBORO DEPARTMENT OF PUBLIC WORKS
STATE CONTRACT #A41869

WHEREAS, the Marlboro Township Public Works Department has recommended that the Township purchase diesel fuel for the Department of Public Works from Marco Oil, Inc T/A Allied Oil LLC, 25 Old Camplain Road, Hillsborough, NJ 08844 under State Contract #A41869 for the amount \$0.0495/gallon over the daily Newark posting not to exceed \$75,000; and

WHEREAS, pursuant to N.J.S.A. 40A:11-12, a municipality may, without advertising for bids, purchase goods under any contract for such goods entered into on behalf of the State by the Division of Purchase and Property in the Department of Treasury; and

WHEREAS, it is in the interest of the citizens of the Township of Marlboro, County of Monmouth and State of New Jersey to provide the said diesel fuel to the Township of Marlboro Department of Public Works; and

WHEREAS, funds are available in Current Account Number 5-01-165-235 and have been certified to by the Chief Financial Officer of the Township of Marlboro; and

WHEREAS, the Township Council desires to approve the purchase of said diesel fuel;

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that authorization is hereby granted to purchase diesel fuel for the Department of Public Works from Marco Oil, Inc T/A Allied Oil, 25 Old Camplain Road, Hillsborough, NJ 08844 under State Contract #A41869 for the amount \$0.0495/gallon over the daily Newark posting not to exceed \$75,000; and

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

- a. Marco Oil Inc. T/A Allied Oil LLC, Hillsborough, NJ
- b. Township Administrator
- c. Township Department of Public Works
- d. Township Chief Financial Officer
- e. Gluck Walrath, LLP

RESOLUTION # 2005-161

RESOLUTION AUTHORIZING THE PURCHASE AND INSTALLATION OF A
HUMAN RESOURCES SOFTWARE SYSTEM FOR THE TOWNSHIP OF
MARLBORO DEPARTMENT OF ADMINISTRATION

WHEREAS, the Marlboro Township Department of Administration contacted certain companies to request estimates for the purchase and installation of a Human Resources Software System; and

WHEREAS, the Department of Administration received the following estimates:

1. PSG International, Old Tappan, New Jersey - \$14,000.00
2. Perfect Software, Norwalk, Connecticut - \$14,993.00
3. Spectrum, Montclair, New Jersey - \$21,125.00

WHEREAS, the lowest estimate for the purchase of the aforementioned item is less than \$17,500.00 in the contract year, thereby allowing a contract to be awarded pursuant to N.J.S.A. 40A:11-3 without public advertising for bids; and

WHEREAS, the Administration and the Department of Administration have reviewed the estimates received and recommend that a contract be awarded to PSG International for the purchase of the aforementioned item; and

WHEREAS, funds are available in Capital Account X-04-55-943-908 and have been certified to by the Chief Financial Officer of the Township of Marlboro; and

WHEREAS, the Township Council desires to approve the purchase of said software;

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that authorization is hereby granted for the purchase and installation of a Human Resources Software System from PSG International, 48 Bi-State Plaza #171, Old Tappan, NJ 07675; and

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

- a. PSG International, Old Tappan, NJ
- b. Township Administrator
- c. Township Department of Administration
- d. Township Chief Financial Officer
- e. Gluck Walrath, LLP

RESOLUTION # 2005-162

A RESOLUTION AUTHORIZING THE AWARD OF A CONTRACT TO
SANSONE CHEVROLET/MOTORS FLEET FOR THE PURCHASE OF ONE 4
X 4 UTILITY VEHICLE FOR THE TOWNSHIP OF MARLBORO
DEPARTMENT OF PUBLIC WORKS

WHEREAS, the Township of Marlboro has authorized the acceptance of bids for the purchase of one 4 x 4 utility vehicle for the Township of Marlboro Department of Public Works; and

WHEREAS, one (1) bid was received by Sansone Chevrolet/Motors Fleet of P.O. Box 638, Red Bank, New Jersey 07701 for \$32,376.00; and

WHEREAS, the Administration and the Director of Public Works have reviewed the bid received and recommend that the contract be awarded to Sansone Chevrolet/Motors Fleet as the lowest qualified bidder; and

WHEREAS, the Township Council finds that it would be in the best interest of the Township of Marlboro to award the contract to the lowest qualified bidder, Sansone Chevrolet/Motors Fleet, for the provision of the aforesaid product.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that the contract for the purchase of one 4 x 4 utility vehicle for the Township of Marlboro Department of Public Works be and hereby is awarded to Sansone Chevrolet/Motors Fleet and that the Mayor is authorized to execute a contract, in a form legally acceptable to the Township Attorney, between the Township of Marlboro and Sansone Chevrolet/Motors Fleet for the purchase of one 4 x 4 utility vehicle for an amount not too exceed \$32,376.00 and in accordance with the bid proposal submitted by Sansone Chevrolet/Motors Fleet which is on file with the Township; and

BE IT FURTHER RESOLVED that the Chief Financial Officer is directed to file a Certificate of Availability of sufficient funds for this contract and to attach same to this Resolution; and

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

- a. Sansone Chevrolet/Motors Fleet
- b. Director of Power Works
- c. Township Office of Public Information
- d. Township Administrator
- e. Township Chief Financial Officer
- f. Gluck Walrath, LLP

RESOLUTION # 2005-163

A RESOLUTION REJECTING ALL BIDS FOR THE PROVISION OF PASSENGER SCHOOL BUS SERVICES TO THE TOWNSHIP OF MARLBORO RECREATION AND

PARKS COMMISSION AND AWARDDING A CONTRACT TO STOUT'S CHARTER
SERVICE, INC. FOR THE PROVISION OF COACH BUS SERVICES

WHEREAS, the Township of Marlboro has authorized the acceptance of bids to provide certain bus transportation service to the Township of Marlboro Recreation and Parks Commission and has received sealed bids therefore; and

WHEREAS, bids were accepted for the following categories: (1) Summer Camp Transportation (passenger school bus); (2) Daily Shuttle Service to Swimming Pools (passenger school bus); (3) Out of State Bus Trips (passenger school bus); and (4) Coach Bus Trips; and

WHEREAS, three bids were received as follows:

1. Greenwood Bus Service, Inc. of 327 Greenwood Road, Matawan, New Jersey 07747 submitted bids for Summer Camp Transportation; Daily Shuttle Service to Swimming Pools; and Out of State Bus Trips;

2. At Your Service Tours of P.O. Box 562, Eatontown, New Jersey 07724 submitted bids for Out of State Bus Trips and Coach Bus Trips; and

3. Stout's Charter Service, Inc. of 20 Irven Street, Trenton, New Jersey 08638 submitted a bid for Coach Bus Trips; and

WHEREAS, the bids of Greenwood Bus Service, Inc. are defective because a Consent of Surety was not submitted and therefore must be rejected; and

WHEREAS, the only remaining responsive bid for out of State Bus Trips submitted by At Your Service Tours substantially exceeds the cost estimates for the services and therefore should be rejected pursuant to N.J.S.A. 40A:11-13.2; and

WHEREAS, Administration and the Township of Marlboro Recreation and Parks Commission recommend that the contract for Coach Bus Trips be awarded to the lowest responsive bidder Stout's Charter Service, Inc. for those amounts set forth in its bid proposal; and

WHEREAS, the Chief Financial Officer of the Township has certified that sufficient funds are available to pay the cost of the aforesaid contract.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED by the Township Council of the Township of Marlboro that the bids submitted by

Greenwood Bus Service, Inc. are hereby rejected for failure to supply a Consent of Surety; and

BE IT FURTHER RESOLVED, that the lowest responsive bid submitted for Out of State Bus Trips by At Your Service Tours substantially exceeds the cost estimates for the services and therefore is rejected pursuant to N.J.S.A. 40A:11-13.2; and

BE IT FURTHER RESOLVED, that the contract for Coach Bus Trips be and hereby is awarded to Stout's Charter Service, Inc. for a period of one-year with the option to renew for an additional year at the same rates set forth in the bid proposal and that the Mayor is authorized to execute a contract, in a form legally acceptable to the Township Attorney, between the Township of Marlboro and Stout's Charter Service, Inc. in accordance with the bid submitted by Stout's Charter Service, Inc. for Coach Bus Trips; and

BE IT FURTHER RESOLVED, that Administration and the Township of Marlboro Recreation and Parks Commission be and hereby is authorized to rebid those contracts for 1) Summer Camp Transportation (passenger school bus); (2) Daily Shuttle Service to Swimming Pools (passenger school bus); and (3) Out of State Bus Trips (passenger school bus); and

BE IT FURTHER RESOLVED that a certified copy of this Resolution shall be provided to each of the following:

- a. Greenwood Bus Service, Inc.
- b. At Your Service Tours
- c. Stout's Charter Service, Inc.
- d. Recreation and Parks Commission
- e. Chief Financial Officer
- f. Township Administrator
- g. Gluck Walrath, LLP

RESOLUTION # 2005-164

A RESOLUTION AWARDING A CONTRACT TO METUCHEN CENTER, INC. FOR THE
PROVISION OF T-SHIRTS TO THE TOWNSHIP OF MARLBORO RECREATION AND
PARKS COMMISSION AND SWIM CLUB

WHEREAS, the Township of Marlboro has authorized the acceptance of bids to provide T-Shirts in various colors and sizes for the Township of Marlboro Recreation and Parks Commission and Swim Club; and

WHEREAS, two bids were received from the following:

1. Metuchen Center, Inc. of 429 Joyce Kilmer Avenue, New Brunswick, New Jersey 08901; and

2. PromoPrint, Inc. of 48 McCampbell Road, Holmdel, New Jersey 07733; and

WHEREAS, Administration and the Township of Marlboro Recreation and Parks Commission have reviewed the bids submitted and recommend that the contract for the provision of T-Shirts to the Township of Marlboro Recreation and Parks Commission and Swim Club be awarded to the lowest responsive bidder, Metuchen Center, Inc. for the amounts set forth in its bid; and

WHEREAS, the Chief Financial Officer of the Township has certified that sufficient funds are available to pay the cost of the aforesaid contract.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED by the Township Council of the Township of Marlboro that the contract for the provision of T-Shirts to the Township of Marlboro Recreation and Parks Commission and Swim Club be and hereby is awarded to Metuchen Center, Inc. for a period of one-year with the option to renew for an additional year at the same rates set forth in the bid proposal and that the Mayor is authorized to execute a contract, in a form legally acceptable to the Township Attorney, between the Township of Marlboro and Metuchen Center, Inc. in accordance with the bid submitted by Metuchen Center, Inc.; and

BE IT FURTHER RESOLVED that a certified copy of this Resolution shall be provided to each of the following:

- a. Metuchen Center, Inc.
- b. Recreation and Parks Commission
- c. Swim Club
- d. Chief Financial Officer
- e. Township Administrator
- f. Gluck Walrath, LLP

The following Resolution # 2005-166 (Special Meeting - Budget Discussions) was introduced by reference, offered by Councilman Mione, seconded by Council Vice President Morelli and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2005-166

BE IT RESOLVED by the Marlboro Township Council that a "Special" Council Meeting will be held on April 20, 2005 at 8:00 PM at the Marlboro Municipal Complex (New Caucus Room), 1979 Township Drive, Marlboro, N. J. 07746. The purpose of the special meeting is to hold budget discussions. Citizen's Voice will be limited to 15 minutes. It is anticipated that no action will be taken.

At 11:10PM, Councilman Denkensohn moved that the meeting go into executive session for reason of discussing COAH and litigation. This was seconded by Councilman Cantor and passed on a roll call vote of 5 - 0 in favor. Recess was called and the executive session commenced at 11:15PM.

RESOLUTION # 2005-167

WHEREAS, it is determined by the governing body of the Township of Marlboro that it is necessary on the 7th day of April, 2005 to go into executive session for the purpose of discussing those items that are particularly exempted from the Open Public Meetings Act, namely, COAH and litigation.

BE IT FURTHER RESOLVED that the governing body shall adjourn to executive session for the purpose of discussing said aforementioned items and that such executive session should take approximately 30 minutes. Those items discussed in executive session shall remain confidential until such time as confidentiality is no longer required. No action will be taken following the executive session.

At 11:45PM, Councilman Denkensohn moved that the meeting be opened. This was seconded by Councilman Mione, and as there was no objection, the Clerk was asked to cast one ballot.

At 11:55PM, Council Vice President Morelli moved that the meeting be adjourned. This was seconded by Councilman Denkensohn, and as there was no objection, the Clerk was asked to cast one ballot.

MINUTES APPROVED:

OFFERED BY:

AYES:

SECONDED BY:

NAYS:

ALIDA DE GAETA
MUNICIPAL CLERK

JOSEPH PERNICE
COUNCIL PRESIDENT